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June 19, 1997

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Federal Communications Commission  
Office of Secretary

VIA HAND DELIVERY

Mr. William F. Caton  
Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Room 222  
Washington, D.C. 20554

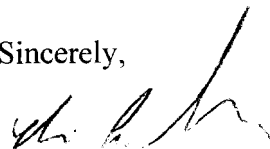
Re: Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996.  
CC Docket No. 96-128.

Dear Mr. Caton:

On behalf of Operator Communications, Inc. d/b/a Oncor Communications, we hereby submit for filing an original and four (4) copies of the Reply of Oncor Communications to Comments of the RBOC Payphone Coalition filed on June 12, 1997 in the above-referenced docket.

Please acknowledge receipt on the supplemental copy provided and remit same to the bearer. Please refer all questions and correspondence regarding this filing to the undersigned.

Sincerely,



Victoria A. Schlesinger

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Enclosures

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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JUN 19 1997

Federal Communications Commission  
Office of Secretary

In the Matter of	)	
	)	
Implementation of the Pay Telephone	)	CC Docket No. 96-128
Reclassification and Compensation	)	
Provisions of the Telecommunications	)	
Act of 1996	)	
	)	
Policies and Rules Concerning	)	CC Docket No. 91-35
Operator Service Access and Pay	)	
Telephone Compensation	)	

**REPLY OF ONCOR COMMUNICATIONS**  
**TO COMMENTS OF THE RBOC PAYPHONE COALITION**

On June 2, 1997, Operator Communications, Inc. d/b/a Oncor Communications ("Oncor") filed a petition for waiver of the payphone compensation rules. On June 12, 1997, the RBOC Payphone Coalition filed self-styled comments opposing the Petition.<sup>1</sup> The Coalition's opposition is based largely on its misreading of Oncor's intentions, which this Reply should resolve. Oncor's Petition for waiver is reasonable, is in the public interest, and should be granted.

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<sup>1</sup>Comments of the RBOC Payphone Coalition on Oncor's Petition for Waiver, CC Docket Nos. 96-128, 91-35 (filed June 12, 1997) ("RBOC Payphone Coalition Comments"). The Coalition's comments seem somewhat premature, given that public notice of Oncor's petition has not yet been issued.

## I. INTRODUCTION

The RBOC Payphone Coalition completely mischaracterizes Oncor's Petition, calling it an "unreasonable" waiver request, when it is in fact little different from the Telco<sup>2</sup> petition that the Coalition concedes is "reasonable."<sup>3</sup> The Coalition also wrongly portrays Oncor's request for exemption from interim compensation requirements as an "out-of-time petition for reconsideration" of the Commission's Report and Order,<sup>4</sup> when it is instead a legitimate request for waiver from a rule that would impose an unjust burden, entirely disproportionate to its share of PSP costs.

Moreover, although Oncor was included in the FCC staff report as among IXC's with revenues over \$100 million, Oncor's 1996 revenues were in fact below that threshold. The Commission's Order on Reconsideration ("Reconsideration Order")<sup>5</sup> makes clear that authority to make adjustments to the list of compensation-payors for the interim flat-rate compensation period rests with the Chief of the Common Carrier Bureau.<sup>6</sup> Because the Petition requests an adjustment to the list of compensation-payors for the interim flat-rate compensation period, Oncor properly filed a Petition with the Commission and the Common Carrier Bureau.

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<sup>2</sup>Petition of Telco Communications Group, Inc. for Waiver of Section 64.1301 of the Commission's Rules, CC Docket No. 96-128 (filed May 15, 1997).

<sup>3</sup>RBOC Payphone Coalition Comments at 1.

<sup>4</sup>See RBOC Payphone Coalition Comments at 3 (stating that "Oncor is simply making an out-of-time petition for reconsideration of the Report and Order's requirement that compensation obligations be based on the market shares and revenue figures contained in the staff's Long Distance Market Share report.").

<sup>5</sup>Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, Order on Reconsideration, CC Docket Nos. 96-128, 91-35 (rel. Nov. 8, 1996).

<sup>6</sup>*Id.*, ¶ 126.

## II. ONCOR'S REQUEST FOR WAIVER IS REASONABLE AND JUSTIFIED

### A. The Interim Compensation Scheme Requires that Oncor Compensate Payphone Providers for Calls It Does Not Carry.

Under the interim plan, Oncor is obliged to pay substantial compensation on a per-phone basis when it carries very, very few payphone calls for which PSPs are not already fairly compensated. Oncor is not a conventional IXC, akin to AT&T, MCI, or Sprint. Like Telco, Oncor does not market services encouraging dial-around calling, such as 800 services or calling card services. Because virtually every payphone call carried by Oncor is a 0+ call for which PSPs are already fairly compensated, an exemption from Section 64.1301 is frankly appropriate. Therefore, Oncor is not seeking to "evade payment,"<sup>7</sup> but asking for recognition that it does not carry any material uncompensated payphone traffic.

The only Oncor customers who realistically could be imposing any costs on PSPs are its comparatively small pool of customers who have received a free long distance or promotional calling card. In order to use the calling card, an Oncor customer must dial Oncor's 800 access number. The volume of these payphone calls is literally so small that compensation is hardly worth the burdens of billing and administration.<sup>8</sup> However, if the Commission believes compensation is nevertheless warranted, then it should be handled on a per-call basis.

### B. Oncor Is Being Asked to Pay a Grossly Disproportionate Share of PSP Costs.

Like Telco, Oncor is being asked to pay a share of PSP costs that is grossly disproportionate to the costs it or its customers impose on PSPs. Oncor's burden is no less

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<sup>7</sup>RBOC Payphone Coalition Comments at 1.

<sup>8</sup>On average, Oncor carries 65,000 such calls per month from approximately 13,000 calling cards from all telephone types, including public payphones, private payphones, hospitality telephones, residential telephones and business telephones. Thus, only a very small percentage of these calls would even be eligible for payphone compensation.

disproportionate and unfair than Telco's,<sup>9</sup> whose petition the RBOC Payphone Coalition agrees should be granted.

It is in part to prevent discrepancies and unfairness like this that the Telecommunications Act of 1996 ("the Act") directed the Commission to create a per-call compensation system for all intrastate and interstate payphone calls.<sup>10</sup> The Commission has emphasized, in both the Report and Order and the Order on Reconsideration, the importance of transitioning quickly to a per-call, rather than a per phone, compensation system.<sup>11</sup> Granting both Oncor's and Telco's Petitions is in the public interest and consistent with other waivers previously allowed by the Commission.<sup>12</sup>

C. Oncor Agrees that the Default Compensation Rate is \$0.35 Per-Call.

The RBOC Payphone Coalition also takes issue with Oncor's alternate request to permit it to pay interim compensation on a per-call basis, simply because Oncor is requesting a per-call compensation rate of \$0.25 per-call, rather than a default rate of \$0.35 per-call. This is not an attempt to get "an unjustified and unsupported discount,"<sup>13</sup> and the Coalition need not be concerned. Oncor acknowledges that the \$0.25 per-call rate was in error. It recognizes that the default per-call compensation rate properly should be \$0.35 per-call, and it is filing concurrently an errata sheet to correct the error. Oncor reiterates that it will fulfill its per-call compensation

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<sup>9</sup>See id.

<sup>10</sup>"In order to promote competition among payphone service providers and promote the widespread deployment of payphone services to the benefit of the general public ... the Commission shall take all actions necessary ... to prescribe regulations that ... establish a per call compensation plan to ensure that all payphone service providers are fairly compensated for each and every completed intrastate and interstate call using their payphone...." 47 U.S.C. section 276(b)(1)(A).

<sup>11</sup>In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, Report and Order, CC Docket No. 96-128 (rel. Sept. 20, 1996); Order on Reconsideration, CC Docket No. 96-128 (rel. Nov. 8, 1996).

<sup>12</sup>Oncor Petition for Waiver, CC Docket No. 91-35 (filed June 2, 1997).

<sup>13</sup>RBOC Payphone Coalition Comments at 1.

obligations in a manner fully consistent with the Commission's Report and Order and Reconsideration Order, when the Commission grants the Petition.

### **III. THE RBOC COALITION ACKNOWLEDGES THAT PER-CALL COMPENSATION IS APPROPRIATE**

For all its pretended indignation, the RBOC Payphone Coalition acknowledges that waivers of Section 64.1301 (if not exemptions) are appropriate in situations such as this, at least on three conditions. The first condition is that the IXC have the ability to track calls, and that its tracking system be capable of auditing. Oncor has both capabilities. Indeed, since the minimal uncompensated payphone traffic carried by Oncor is routed through its 800 access number, Oncor's tracking systems are quite precise. The Coalition's second condition is that IXC pay per-call compensation for subscriber 800 calls and 0+ calls for which no PSP compensation is otherwise due. This condition is inapplicable to Oncor's Petition, and the company takes no position on the issue. The Coalition's third condition is that billing be handled on a monthly basis. Oncor agrees that monthly billing may be appropriate.

The RBOC Payphone Coalition also opines that Oncor "*seems* to imply that it will only pay compensation only to independent (*i.e.*, non-LEC) payphone providers."<sup>14</sup> Here again, the Coalition is needlessly defensive, as no such implication was intended. Accordingly, Oncor would like to clarify for the record that it will pay per-call compensation to all eligible payphone service providers in accordance with the Commission's Report and Order and Reconsideration Order. If the Commission concludes that per-call compensation, rather than an exemption, is warranted, Oncor reiterates that it will compensate all eligible payphone service providers on a per-call basis.<sup>15</sup>

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<sup>14</sup>*Id.* at 4 (emphasis added).

<sup>15</sup>It is perhaps ironic that the RBOC Payphone Coalition should be so concerned about losing an unfair subsidy from an IXC which generates virtually no PSP default costs.

#### IV. CONCLUSION

Oncor's Petition is reasonable, consistent with the Act, the Commission's Report and Order and Reconsideration Order, and should be granted, either allowing an exemption from interim PSP compensation or permitting per-call interim compensation. For all its hostility, the RBOC Payphone Coalition acknowledges that per-call interim compensation is appropriate, and tacitly concedes that IXCs like Telco and Oncor should not be obliged to pay PSP compensation for calls that do not exist. Oncor's errata and the clarifications provided in this Reply should resolve any further concerns raised by the Coalition's comments.

Respectfully submitted,

OPERATOR COMMUNICATIONS, INC.  
d/b/a ONCOR COMMUNICATIONS



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Its Attorneys

Date: June 19, 1997

**CERTIFICATE OF SERVICE**


I, Victoria A. Schlesinger, hereby certify that a copy of the foregoing Reply of Oncor Communications to Comments of the RBOC Payphone Coalition was sent to each of the following parties by hand delivery on this 19th day of June, 1997.

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